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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/848,434	05/04/2001	Jay K. Sheerer	10-1340	8624

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EXAMINER

ALVO, MARC S

ART UNIT	PAPER NUMBER
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1731

DATE MAILED: 01/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/848,434

Applicant(s)

SHEERER

Examiner

Steve Alvo

Art Unit

1731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 22-26 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 22-26 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over CANADIAN PATENT APPLICATION 2,243,733.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over CANADIAN PATENT APPLICATION 2,243,733 with or without RICH.

CANADIAN PATENT APPLICATION 2,243,733 (Figures 3, 16A and 16B) teaches continuous annular protrusions connected to an internal section of a vessel each protrusion having a triangular cross section. The CANADIAN PATENT APPLICATION 2,243,733 teaches using impervious protrusions 53, 122, 40 (Figure 3) and 84, Figures 16A and 16B, which extend into the vessel at locations offset from the screens in portions of the vessel that are hollow. The CANADIAN PATENT also teaches that these protrusions typically extend 6 inches into the vessel (page 2, line 14) or Figure 20 shows the protrusions to extend 12 inches into the vessel. If necessary, it would have been obvious to the artisan that the step-out protrusions of CANADIAN PATENT APPLICATION 2,243,733

would be 6 inches as such is typical in the art. The CANADIAN PATENT APPLICATION 2,243,733 teaches such a design allows for "column relief", page 7, lines 18-23. The use of a plurality of screens along the digester is well known in the art as evidenced by Figure 1 of the CANADIAN Patent and taught by Canadian Patent in Figure 4 and page 8, lines 13-15.

CANADIAN PATENT APPLICATION 2,243,733 (Figures 3, 16A and 16B) teaches continuous annular protrusions connected to an internal section of a vessel each protrusion having a triangular cross section. The CANADIAN PATENT APPLICATION 2,243,733 teaches using impervious protrusions 53, 122, 40 (Figure 3) and 84, Figures 16A and 16B, which extend into the vessel at locations offset from the screens in portions of the vessel that are hollow. The CANADIAN PATENT also teaches that these protrusions typically extend 6 inches into the vessel (page 2, line 14) or Figure 20 shows the protrusions to extend 12 inches into the vessel. If necessary, it would have been obvious to the artisan that the step-out protrusions of CANADIAN PATENT APPLICATION 2,243,733 would be 6 inches as such is typical in the art. The CANADIAN PATENT APPLICATION 2,243,733 teaches such a design allows for "column relief", page 7, lines 18-23. If necessary, RICH teaches using a screening surface having a space from the vessel surface of $\frac{1}{2}$ to 2 inches (column 3, lines 54-57). It would have been obvious to structure the protrusions of the CANADIAN PATENT APPLICATION 2,243,733 (Figures 3 and 16 A and B) to the depth taught by RICH so they correspond to the depth of the screens (43) in the CANADIAN PATENT. See CANADIAN PATENT APPLICATION 2,243,733, Figure 19 for triangular shaped protrusions. See Figures 12 and 13 for a perimeter defined by the protrusions of a hollow region. See Figure 13 for the screen assembly vertically offset from protrusion 82. The use of a plurality of screens along the digester is well known in the art as evidenced by Figure 1 of the CANADIAN Patent and taught by Canadian Patent in Figure 4 and page 8, lines

13-15.

The argument that the protrusions of the CANADIAN PATENT is not convincing as the drawings show 53, 122, 40 (Fig. 3) and 84, Figures 16A, 16B, Figure 13 as solid lines, which would indicate that the protrusions are solid. See also CANADIAN PATENT APPLICATION 2,243,733, page 9, lines 8-10 where the conical transition sections may be continuous. See also page 9, line 1 for teaching other geometries and solid surfaces (45) and (54) of the Canadian Patent. The argument that the section of the CANADIAN PATENT teaches porous screen assemblies is not convincing as elements (45) and (54) are not part of the screen assembly, but adjacent to it. The Canadian Patent describes the triangular transition elements as being smooth and continuous or perforated (page 9, lines 8-10). Clearly the smooth and continuous embodiment would be impervious. It is also noted that elements (45) and (54) of the Canadian Patent have hatched cross-sections. As set forth by Applicant on page 6 of the remarks of October 28, 2003 and MPEP 608.02, this would represent a solid metal object. The claims do not define over the solid elements of the CANADIAN PATENT.

MARCOCCIA (5,985,096) cited of interest. It is equivalent to the CANADIAN PATENT.

GLOERSEN cited to teach a digester having multiple screen sections and a solid extension opposite the screen.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

When filing an **"Official"** FAX in Group 1730, please indicate in the Header (upper right) **"Official"** for papers that are to be entered into the file. The **"Official"** FAX phone number for this TC 1700 is: 703-872-9306.

Any inquiry concerning this communication or earlier communications from the **primary examiner** should be directed to **Steve Alvo** whose telephone number is **571-272-1185**. The Examiner can normally be reached on Monday - Friday from **6:00 AM - 2:30 PM (EST)**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Steve Griffin, can be reached on **571-272-1189**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Group receptionist** whose telephone number is **571-272-1700**.



STEVE ALVO
PRIMARY EXAMINER
ART UNIT 1731